

THE WEATHER
Fair tonight and
Friday; Warmer to-
night.

TONOPAH DAILY BONANZA

Metal Quotations
NEW YORK, May
27. — Silver, 49½;
copper, 18½.

VOL. XV—NO. 76

TONOPAH, NEVADA, THURSDAY EVENING, MAY 27, 1915

PRICE 10 CENTS

FINDINGS ARE SETTLED IN MINING CASE

WEST END TO TAKE JUDGMENT IN CASE WHERE THE JIM BUTLER COMPANY IS PLAINTIFF—TO MOVE FOR A NEW TRIAL

Findings were settled by Judge Averill last evening in the fifth judicial district court in the case of the Jim Butler Tonopah Mining company, a corporation, plaintiff, vs. West End Consolidated Mining company, a corporation, defendant. Findings of fact and conclusions of law, both general and special, were presented to the court by counsel for either side and argument was thorough. In the end the court accepted the following findings, after rejecting some and remodeling others. The court will enter judgment in five days in favor of the defendant.

Plaintiff gave notice that in ten days it would move for a new trial, preliminary to carrying the case to a higher court, in case it is not tried again here. A gentlemen's agreement was entered into between counsel that defendant would not enter plaintiff's ground, to remove ore from the vein awarded it, or for any other purpose until the expiration of ten days, which will obviate the necessity of giving a new bond by the plaintiff when the present bond automatically expires upon the signing of the judgment.

The demurrer of plaintiff to the answer of defendant in the case between these companies, involving title to ore to the value of \$125,000, which was extracted from the Fraction vein, was to have come up at this sitting of the court, but on motion of the Jim Butler it was put over until the time of hearing the motion for the new trial. In the event that the case then comes on for trial it will probably be called for June 30, that being the first open date on Judge Averill's calendar and the last also before the bar vacation. The date was tentatively reserved.

The proceedings last evening were of intense interest, one of the chief points argued being the difference between actual and legal possession, as well as the distinction between possession and occupancy, which arose from the claim by the plaintiff that in cutting through to the West End workings it gained a tenancy on one of the anticlinal limbs of the vein in dispute. While the argument grew heated at times, it was without personality or acidity.

The preliminary to the findings approved by Judge Averill, after amendments and elisions, was the stipulation, which covered a number of type-written pages. Following are the findings of fact and conclusions of law, together with the final judgment, which, however, has not yet received the signature of the court:

Findings of Fact

That the plaintiff, Jim Butler Tonopah Mining Company, at all of the times mentioned in the complaint and the amended complaint herein, was, and is now, the owner and in possession of, and entitled to the possession of those certain patented lode mining claims situated, lying and being in the Tonopah Mining District, County of Nye, State of Nevada, known as and called respectively the Eureka lode mining claim and the Curtis lode mining claim; the said Eureka lode mining claim being a portion of United States Survey designated by U. S. Surveyor General of the State of Nevada as Survey No. 2600; and the said Curtis lode mining claim being a portion of United States Survey designated by the U. S. Surveyor General of the State of Nevada as Survey No. 2602.

II.

That the defendant, West End Consolidated Mining Company, is, and is or its predecessors in interest continuously for more than thirteen years last past has been, the owner of, in possession of, and entitled to the possession of that certain lode mining claim situated in the Tonopah Mining District, Nye County, State of Nevada, known as and called the West End lode mining claim, being United States Survey designated by the United States Surveyor General for the State of Nevada as Survey No. 2624; that the government of the United States, by patent bearing date

the 21st day of July, 1904, granted and conveyed said West End mining claim to the defendant's grantor and predecessor in interest, namely, the Tonopah Extension Milling & Mining Company, a corporation; that said mining claim is described in said patent as follows, to-wit:

(Here follows description.)

That prior to the issuance of said patent a valid discovery was made upon and within said West End Mining Claim, and a vein or lode of rock in place, bearing gold, silver, and other valuable metals, was cut by and disclosed in the discovery shaft of said mining claim; that said vein or lode so cut and disclosed in said discovery shaft, at its top or apex, and on its course or strike crosses the easterly end line of said West End mining claim, and thence at its top or apex and on its course or strike, continues in a westerly direction within said mining claim, and between the side lines thereof, until it intersects, and at its top or apex and on its course or strike, crosses the northerly side line of said mining claim, and so departs therefrom.

III.

That said Eureka lode mining claim adjoins and is contiguous to said West End mining claim upon and along the southerly side line of said West End mining claim, and that said Curtis lode mining claim adjoins and is contiguous to said Eureka lode mining claim upon and along the southerly side line of said Eureka lode mining claim.

Substance of Findings

IV.

That there is a vein or lode of rock in place, bearing gold, silver, and other valuable metals, which, at its top or apex, and on its course or strike, crosses the easterly end line of said West End mining claim 130 to 140 feet northerly of the south easterly corner of said mining claim, and thence, at its top or apex, and on its course or strike, continues westerly in said mining claim between the side lines thereof to a point on the northerly side line of said claim 1142½ feet westerly from the northeast corner of said claim measured along the northerly side line thereof, at which point the said vein, at its top or apex, and on its course or strike, departs from said mining claim, crossing said northerly side line. That said vein dips southerly, and in its downward course so far departs from the perpendicular as to pass beyond the southerly side line of said West End mining claim, extended downward vertically, and thence into and beneath the surface of the said Eureka lode mining claim and the said Curtis lode mining claim of the plaintiff company.

That the defendant is now, and at all of the times mentioned in the complaint and amended complaint herein, was, the owner of, in possession of, and entitled to the possession of said vein in this finding mentioned and described throughout its entire depth between vertical planes, one drawn through the easterly end line of said West End mining claim con-

(Continued on Page 3.)

YAMI-YAMI PARTY

From all indications the dance to be given this evening by the Tonopah lodge of Elks in every phase exceeded the fond expectations for a night of pleasure. The committee is sparing neither time, labor nor expense to make the event a pleasurable one. The party will be for the Elks and their guests, the affair being invitational. It will be a yami-yami dance and all are asked to be in costume.

FIREMAN RECEIVES INJURY

King Pierce, driver of the auto fire truck, had the misfortune to have the large hose of his right wrist broken. The engine crank kicked back. The injury is not serious, but he will be out of business for some time.

JACK HUMPHREY is in from Sylvanite, purchasing supplies.

BOMBS KILL FIFTY GERMAN SOLDIERS

(By Associated Press.)
AMSTERDAM, May 27.—Fifty German soldiers at Ostend were killed by an aeroplane of the allies, according to a dispatch.

WOMAN IS KILLED IN A ZEPPELIN RAID

(By Associated Press.)
SOUTHEND, May 27.—Another Zeppelin raid was made last night, and Mrs. May Fabin was killed. The town was illuminated by bursting shells. The damage was less than on the previous raid. Southend is forty miles east of London. Some say there were two Zeppelins and others, three, engaged. British aeroplanes pursued the invaders.

(By Associated Press.)
LONDON, May 27.—The secretary of the admiralty says that two women were killed in the Zeppelin raid on Southend.

AIRMEN BOMBARD A CHEMICAL FACTORY

(By Associated Press.)
PARIS, May 27.—A French aerial squadron of eighteen aeroplanes bombarded a chemical factory at Ludwigshafen, opposite Mannheim. Fire started in several buildings. The factory is one of the most important manufacturing of explosives in Germany.

POPE CALLS WAR A "CONFLAGRATION"

(By Associated Press.)
ROME, May 27.—"The hour we are traversing is painful, but our prayers will go out more frequently than ever to those who have in their hands the fate of the nations," was the pope's declaration in a letter to Cardinal Vannutelli. He recalled urging the belligerents to make peace, and says his voice was unheeded until "the terrible conflagration extended to our beloved country."

DANISH STEAMER SUNK BY A SUBMARINE

(By Associated Press.)
SOUTH SHIELDS, May 27.—The Danish steamer Betty was submerged in the North sea. It sank but the crew was rescued.

EMMANUEL IN COMMAND ARMY AND NAVY

(By Associated Press.)
ROME, May 27.—The king, in taking supreme command of the army and navy, made this statement: "The solemn hour of the nation's chimes has struck. To you has come the glory of finally accomplishing a work undertaken with so much heroism by your fathers. We are unfurling Italy's colors on lands that nature has given as frontiers for our country."

SECRETARY BRYAN ASKS COMMUTATION

GOVERNOR OF ARIZONA HAS
LOST POWER TO
INTERVENE

(By Associated Press.)
WASHINGTON, May 27.—At the request of General Villa, Secretary Bryan has telegraphed to Governor Hunt of Arizona suggesting commutation of the sentence of five Mexicans condemned to hang tomorrow.

(By Associated Press.)
FLORENCE, May 27.—Dr. Albert Vuczarra, representing General Villa, appeared before the board of pardons and pleaded for the lives of the five condemned Mexicans.

(By Associated Press.)
PHOENIX, May 27.—The governor of Arizona has no power in the case of the condemned Mexicans. It was taken from the governor at the last election.

CHINA REALIZES HER HUMILIATION

PRESIDENT CALLS UPON THE
PEOPLE TO WORK HARMONIOUSLY
TO SAVE COUNTRY

(By Associated Press.)
PEKING, May 27.—The text of the two treaties and thirteen notes signed on Tuesday by China and Japan is published today. Yuan Shi Kai has issued this proclamation: "Our rights and privileges in Manchuria have suffered enormously. We are ashamed and humiliated, but our weakness incited insult. Let the people work harmoniously for the supreme object of saving our country."

NEW COMPANY WILL BE FORMED AS SUCCESSOR TO DEXTER WHITE CAPS

A special meeting of the Dexter White Caps Mining company, a Manhattan corporation, was held yesterday afternoon and last evening. It was a called meeting of shareholders called to act upon a plan of reorganization. Action was practically unanimous, 605,814 shares being in favor of the plan and only 103 against.

The old corporation will be dissolved and a new one formed, to be known as the White Caps Mining company. It will be incorporated under the laws of the state of Nevada and the stock will be assessable. The new company will have a capitaliza-

tion of 2,000,000 and will be traded in share for share, which will leave a considerable amount in the treasury for sale at a future time. It is not, however, the intention of the new company to offer any at present, but will instead levy an assessment, probably of 1½ cents a share, the money thus received to be devoted to paying the indebtedness of the old company and providing for working capital for development purposes. The company has large reserves of ore and it is given out that the problem of successful reduction has been solved.

KILLING FROST ON ATLANTIC COAST

HEAVY DAMAGE DONE TO CROPS
OF VEGETABLES AND
FRUITS

(By Associated Press.)
WASHINGTON, May 27.—Killing frosts in the lake region of the middle Atlantic states broke May weather records of many years and promised unseasonable cold. Reports indicated heavy damage to fruit and vegetables, particularly in the interior of New York. While ice formed on standing water in the east, warm showers fell over the central valleys.

INFANTRY REGIMENT IS WIPED OUT

GERMANS GET DOSE OF THEIR
OWN ASPHYXIATING
GAS

(By Associated Press.)
LONDON, May 27.—An eye witness says that in the battles on the western front on May 16 and 17 the 57th Prussian infantry lost 2400 of its 3000 men. Near Ypres a detachment of Germans attempting to use asphyxiating gas, suffered themselves after a French shell burst a cylinder containing it.

REPORT THAT LAMBORN'S BODY HAS BEEN FOUND

An Indian brought the report to Tonopah today that the body of a man, believed to be Dan Lamborn, has been found near the Manhattan road, not far from that town. It is said that the body is that of a man who shot himself. No good description could be obtained. Sheriff Slavin sent an officer to make an investigation and bring the body to Tonopah.

TRANSPORT SEIZED AS LANDING IS ATTEMPTED

(By Associated Press.)
CONSTANTINOPLE, May 27.—A transport, escorted by the French cruiser Jules Michelet, attempted a landing at Boudroun. "We killed one of the enemy's officers and sixteen men, and wounded others, as well as captured the transport," is the Turkish report.

WILL APPEAR TOMORROW

Owing to the space occupied today by the findings in the Butler-West End case, the report of last evening's commencement proceedings and other local news is crowded out, but will appear tomorrow.

MASONIC NOTICE

A stated communication of Tonopah lodge, No. 28, will be held Friday, May 28, at 8 p. m. All members requested to be present. Visiting brethren cordially invited. By order of the W. M. J. E. PECK, Secretary.

BIRTH OF A SON

A son was born this morning to the wife of Frank Garside.

SIX ARE KILLED BY A HURRICANE

STORM DOES DAMAGE ESTIMATED AT A MILLION DOLLARS

(By Associated Press.)
FORT SMITH, Ark., May 27.—Six are reported dead, two at Tallahatchie, and four at Checotah, Okla., as a result of the storm which swept over western Arkansas and eastern Oklahoma. It is reported that more than sixty were injured at Tillina. The storm did damage at different places estimated at a million dollars.

MYSTERY AS TO SOURCE OF BLOW

NOT KNOWN WHETHER NEBRASKAN STRUCK MINE OR WAS TORPEDOED

(By Associated Press.)
WASHINGTON, May 27.—Official messages from Ambassador Page and others have not said definitely whether the Nebraskan was torpedoed or struck by a mine. One dispatch said the American flag was lowered five minutes before she was struck although the name was painted on her sides in big letters. The owners of the Nebraskan are inclined to believe it was a mine.

EMPEROR FORWARDS A MESSAGE OF CONDOLENCE

(By Associated Press.)
PETROGRAD, May 27.—The emperor has sent a message of condolence and a gift of \$5000 to the families of the victims of the explosion at the Okhtensky melinite works. The official report of the disaster gives the total number of killed as 84. Of the wounded, 63 are still in the hospital. The works are located in a suburb of Petrograd.

MRS. R. J. WILLIAMS, accompanied by her niece, Miss Zita Willis, left this morning on an extended visit to St. Louis and other points in the east and south.

BUTLER THEATRE TONIGHT

Gloria Mayne
AMERICA'S PRIMA DONNA
SOPRANO

Who has Toured the World in a
High class Musical Vaudeville Act

The Girl of the Music Hall

A 3-reel Kalem Drama featuring
Alice Joyce

Matinees—1 and 2 p. m.
Night Shows—7, 8 and 9 p. m.

Admission 10 cents